

AMENDED AND RESTATED MASTER GROUND LEASE AGREEMENT

THIS AMENDED AND RESTATED MASTER GROUND LEASE ("Lease"), made this 15th day of April, 2016, by and between the SOUTH DAKOTA BOARD OF REGENTS ("Landlord"), and the UNIVERSITY OF SOUTH DAKOTA RESEARCH PARK, INC. doing business as the UNIVERSITY OF SOUTH DAKOTA DISCOVERY DISTRICT ("Discovery District").

WHEREAS, Discovery District desires to develop, construct, sublease, and operate a Research Park as provided and defined in SDCL 5-29-2(c) to include all infrastructure systems, buildings, improvements and other structures built by the Discovery District on the Leased Property, subject to the terms and conditions hereafter provided;

WHEREAS, Landlord herein acknowledges approval for Discovery District to develop and operate a Research Park on the Leased Property. Landlord further acknowledges its approval, as set forth in this document, of delegating certain rights, duties and responsibilities otherwise incidental to Landlord's control over the property to Discovery District or its designee to enable Discovery District more effectively to develop and to operate the Research Park;

WHEREAS, Discovery District and Landlord entered into a Master Ground Lease, dated June 20, 2013 (the "Original Lease"), pursuant to which Landlord agreed to let to Discovery District, and Discovery District agreed to lease from Landlord, certain parcels of real property described therein; and

WHEREAS, Discovery District and Landlord now wish to amend and restate the Original Lease to (i) redefine the Leased Property (as defined below); (ii) reset the ninety-nine (99) year lease term; and (iii) effect such other amendments thereto as are hereinafter provided.

NOW, THEREFORE, in consideration of the promises, covenants and agreements contained herein, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Discovery District and Landlord hereby agree as follows:

ARTICLE I

PROPERTY AND TERM

Section 1.1. Leased Property: Landlord hereby leases to Discovery District, and Discovery District hereby leases from Landlord, the following described real property located campus in Sioux Falls, South Dakota (hereinafter "Leased Property"), subject to Landlord's Reserved Right set forth in Section 1.2 hereafter:

That part of the South Dakota Public Universities & Research Center Addition to the City of Sioux Falls, Minnehaha County, South Dakota and that part of the University Center Research Park Addition to the City of Sioux Falls, Minnehaha County, South Dakota, as

shown in the shaded areas on Exhibit A, which is attached hereto and by this reference incorporated herein as if set forth in full.

This tract of land currently contains agricultural land.

- A. The research park is a wholly new facility. The Landlord hereby permits such use as a Research Park, including constructing infrastructure and facility development by Discovery District. Discovery District may, upon execution of this Lease, occupy the above-described Leased Property to provide sites for the facilities and infrastructure, subject to applicable law.
- B. Discovery District shall prepare, at its expense, a plat, or other legal description that would make the Leased Property identifiable in a survey, and, upon review and acceptance by Landlord, such plat or drawing will be attached to this Lease as Exhibit B and incorporated herein as though fully set forth.

Section 1.2. Landlord's Reserved Right: Landlord reserves the right to build, develop or otherwise construct academic or research facilities on undeveloped land within the Leased Property, so long as such facilities comply with the Covenants, Conditions and Restrictions referenced in Section 1.3.1 hereof and upon providing Discovery District with at least ninety (90) days advance notice in writing. For purposes of this section, "undeveloped land" shall mean land that does not include any public or private buildings, is not subleased, or otherwise legally committed to, or subject to a Letter of Intent or Term Sheet, with an existing or prospective subtenant or developer. In the event Landlord elects to exercise this right, a parcel of land of the same size to that of the parcel Landlord elects to occupy shall be added to the Leased Property, as mutually identified and agreed to by the parties, allowing Tenant to maintain the acreage necessary to effectively carryout the development and operation of a Research Park. In all events, the property reserved pursuant to the provisions hereof shall be contiguous with the property owned by Landlord, and the property added shall be contiguous to the property then leased to Discovery District.

Section 1.3. Purpose of the Lease: The Lease for the described Leased Property permits the Discovery District to develop and to operate a Research Park under the terms and conditions hereof.

Section 1.4. Property Rights: In conjunction with this Lease, Landlord hereby appoints Discovery District as its agent in its name to execute such covenants, conditions, restrictions, and licenses on the Leased Property, and also to execute such subordination, nondisturbance, and attornment agreements, re-plat certifications, roadway dedications, or permit applications necessary to provide for development of the Research Park and its appropriate infrastructure and to carry out this Lease. Further, in conjunction with this Lease, Landlord agrees to request at the Tenant's option approval under SDCL §§ 5-2-10 and 5-2-11 for grants for the benefit of Discovery District of the following described easements:

- A. Access Easement: This easement is assignable and shall allow vehicular access, ingress and egress to each site on and across all current and future roads.
- B. Construction Easement: This easement is assignable and shall be for all construction purposes for the Research Park.
- C. Common Areas Easement: This easement is assignable.
- D. Utility Easement: This easement is assignable.

Landlord agrees to request of approval for such additional street dedications or easements as requested by Discovery District, as may be required for the proper development of the Research Park. Landlord agrees, further, to perform those acts and to execute those documents necessary to providing subtenant's commercially reasonable assurance, consistent with the requirements of this lease and the limitations of law, of tenancy on terms comparable to tenancy in similar public university-related research parks.

1.4.1. Discovery District will prepare for approval and review by the Landlord and upon approval, will adopt covenants, conditions and restrictions (hereinafter referred to as CC&R's) on the Research Park which when adopted are hereby incorporated herein as though fully set forth. The CC&R's shall by their express terms run with the land and shall be made applicable to, and shall govern the use of the premises by, all lessees, tenants and owners of the Research Park buildings, together with their assigns, creditors, heirs, trustees, mortgagees, receivers or any other successors in right, power or interest.

1.4.2. Discovery District agrees to incorporate into each contract or sublease granted under this Master Lease provisions that provide notice that CC&R's run with the land and extend the same to mortgagees, trustees, receivers, or other persons claiming a right, power or interest in any contract issued under this lease or over sublessee's leasehold or building. Discovery District agrees to incorporate into each sublease agreement requirements that, prior to contracting for any construction, sublessees provide proof satisfactory to Discovery District that they have obtained for themselves and from their contractors bonds to indemnify the sublessee, Discovery District and Landlord when an unpaid claimant files a mechanic's, materialmen's or any other lien attaching to the subleased property so the property will be free of the lien.

Section 1.5. As Is Acceptance: Other than as stated below, Discovery District takes and accepts the Leased Property in its "as is" condition and subject to any zoning, covenants, conditions, restrictions, uses or easements, whether known or unknown, affecting the Leased Property. Landlord warrants and represents the property, to the best of its knowledge, is free from environmental hazard. Upon demand from Discovery District, Landlord shall immediately cause the Leased Property to be cleared of any structures, debris, or any other personal property that may be on the site. Any clean-up of any existing environmental conditions shall be performed immediately upon execution of this Lease and at the expense of the Landlord. Discovery District shall not be responsible for pre-existing environmental conditions that may require clean up.

Section 1.6. Term: The term of this Lease shall be ninety-nine (99) years commencing the date hereof, pursuant to the provisions of SDCL 5-29-12. Discovery District may not enter

into any sublease with a term beyond the end of the term of this Lease. Unless contrary to the provisions of the South Dakota Constitution or applicable statutes then in effect, Landlord and Discovery District mutually agree to consider modifying the terms of this Lease on a mutually agreeable basis, if requested by Discovery District upon its determination that the remaining term of the Lease is deemed to adversely impact the ability of Discovery District to enter into new subleases with prospective subtenants or developers.

Section 1.7. Delivery of Possession: Landlord shall deliver possession of the premises to Discovery District at the Commencement Date or such other date as the parties mutually agree.

Section 1.8. Title to Improvements: Discovery District and its Subtenant(s) shall during the term of this Lease have quiet enjoyment and full and uninterrupted use of the Research Park and related improvements constructed on the Leased Property subject only to such agreements, limitations and restrictions as herein contained, including for the purposes of private development, the improvements under such subleases. Following the completion of construction of the Research Park and related improvements, if requested, the parties agree to execute a memorandum of severance agreement providing that the Research Park and related improvements shall be and shall remain as personalty even though attached and affixed to real property and shall be the separate personal property of Discovery District or its Subtenant(s), subject to this Lease.

Landlord agrees that Discovery District, upon paying the rent and all impositions and other charges herein provided for and performing all the covenants and conditions of this Lease, shall lawfully and quietly occupy the land during the term of this Lease without hindrance or molestation by Landlord or any persons claiming under Landlord and that Landlord has good right to make this Lease for the full term hereby granted.

Section 1.9. Reservation of Mineral Rights: As required under SDCL § 5-2-12, the Landlord reserves to the State of South Dakota all deposits of coal, ores, metals, and other minerals, asphaltum, oil, gas, and other like substance in such lands, together with the right to prospect for, mine, and remove the same upon rendering compensation to the owner or lessee for all damages that may be caused by such prospecting or removal. The reserved deposits shall be disposed of only in the manner expressly provided by law. Notwithstanding the foregoing, under SDCL 5-29-7, such portions of the mineral interests reserved to the State of South Dakota in the lands occupied by Discovery District as may be necessary to permit Discovery District and its Subtenant(s) to use geothermal resources for heating or cooling on-site facilities are hereby leased to Discovery District. If requested, the Landlord shall request the State of South Dakota to lease such mineral rights to Discovery District under law.

ARTICLE II

RESEARCH PARK DEVELOPMENT & DEFINITION

Section 2.1. Research Park Development: Subject to such rights of approval by the Landlord as expressly retained herein, Discovery District shall provide for the design, financing,

insuring, installation, leasing, operation, maintenance, repair, renovation, replacement, cleanup, disassembly, removal or transfer of the infrastructure, office spaces, laboratories and support facilities of the Research Park.

Section 2.2. Research Park Advancement: Discovery District will advertise and market Discovery District opportunities, coordinate the review and approval of proposed facilities as provided in this Lease, contract for approved facilities, enter into subleases, provide for the operation of the Discovery District in a fiscally sound, business-like manner– in furtherance of its essential mission, and alert the Landlord to any changes in this Lease or related policies and practices that might enhance the effectiveness or efficiency of the Discovery District.

Section 2.3. Manner of Usage: Discovery District and Subtenant(s) shall conduct business in good faith, in a high grade and reputable manner not inconsistent with the mission of University of South Dakota.

Section 2.4. Compliance with Law: Discovery District and Subtenant(s) shall promptly comply with all laws, ordinances, and regulations affecting the Leased Property of Discovery District and Subtenant(s).

Section 2.5. Definition of Research Park: For the purpose of this Lease, “Research Park” designates all infrastructures, systems, buildings, improvements, and other structures built by the Discovery District on the Leased Property, all of which shall be subject to such requirements as set forth in this Lease, including but not limited to the Use Requirements in Article V.

ARTICLE III

CONSTRUCTION OF RESEARCH PARK

Section 3.1. Conditions of Construction: The Research Park to be developed by Discovery District on the Leased Property shall be subject to the following:

3.1.1. The Research Park design plan including architectural, mechanical and electrical schematic design, landscaping, parking, and exterior lighting, whether for the research park campus and for any buildings or structures installed thereon, will comply with the requirements fixed by applicable law for improvements and will be in conformance with design standards for accessible, university-related research parks, and upon completion of the Research Park, copies of all plans, specifications and construction documents will be delivered to Discovery District and held to be delivered to the Landlord when the Lease terminates. Such plans, specifications, and construction documents shall be in a format acceptable to the Landlord. Such plans shall be approved in advance by Discovery District. No substantive construction contract may be let, until Discovery District has approved the plans and specifications for the project.

3.1.2. Discovery District agrees that the Research Park, and its constituent buildings and structures, will be designed to incorporate accessibility, fire and life safety systems, heating, ventilation and air conditioning systems, waste emission and handling systems, information technology systems and security systems likely to meet the life safety, laboratories and industrial safety requirements of the facilities it reasonably anticipates may be constructed upon the premises. The design criteria shall also consider security systems, including controlled access, entrance surveillance, emergency alert and other systems appropriate for the level of security required to meet the security standards applicable to the facilities it reasonably anticipates may be constructed upon the premises. Discovery District will, at all times, oversee work performed to keep all such safety and security systems in good working order and to assure the repair, replacement or upgrade of all such safety and security systems as needed to conform to regulatory requirements applicable to the facilities and to relevant industry standards.

3.1.3. All costs associated with landscaping of the Research Park on the Leased Property will be borne by Discovery District or its Subtenant(s).

3.1.4. All parking areas and exterior lighting associated with the Research Park must be built in conformance to applicable law.

3.1.5. Discovery District and its Subtenant(s) will obtain all required government permits, approvals, and compliance with all statutes, ordinances, and regulations relating to the construction and development of the Research Park.

3.1.6. Discovery District shall require that any developer of the Research Park on the Leased Property obtain and shall maintain a developer's bond satisfactory to Landlord to assure that the property leased hereunder shall be free from mechanic's, materialmen's, municipal, mortgagee's or any other form of lien. Discovery District's, the developer and Subtenant(s) shall promptly pay all contractors and materialmen, to avoid the possibility of a lien attaching to the Leased Property, and should any lien be made or filed, to the extent permitted by law, Discovery District, the developer, or Subtenant(s) shall bond against or discharge the same within ten (10) days after written request by the Landlord.

3.1.7. Nothing in this Lease shall be construed as consent by the Landlord to subject the Landlord's estate in the Leased Property to any lien or liability under applicable law. Nor shall any provision of this Lease be construed to constitute or to authorize creation of obligations that might constitute an indebtedness of the University of South Dakota, the Landlord or the State of South Dakota, within any constitutional or statutory limitation, and neither the taxing power nor the general credit of the University of South Dakota, of the Landlord or the State of South Dakota is pledged to performing any obligation assumed by, or devolving upon, Landlord hereunder pursuant to SDCL 5-29-15.

3.1.8. All construction and use of the Leased Property shall be in full conformance with the covenants, conditions, restrictions, and licenses regarding the Leased Property, including but not limited to those covenants, conditions, restrictions, and licenses referenced in Section 1.4.

ARTICLE IV

RENT

Section 4.1. Annual Rent: Discovery District agrees that, upon execution of this Lease, Discovery District shall be obligated for the payment of One Dollar (\$1.00) for the first year of occupancy of the Leased Property, and the payment of One Dollar (\$1.00) on each anniversary thereof throughout the term of this Lease or any extensions thereof as fixed Annual Rent. Such payment shall be made to the Landlord. Discovery District may, upon execution of this Lease, prepay the fixed Annual Rent in full for the full duration of the Term. The Landlord hereby will acknowledge the receipt and sufficiency of this full pre-payment of fixed Annual Rent if so paid by Discovery District.

ARTICLE V

USE

Section 5.1. Permitted Use: The Leased Property and Research Park developed thereon may be used for only the purposes set forth in SDCL 5-29-2 (3) and SDCL 5-29-4.

Landlord authorizes Discovery District as its agent to execute covenants upon the property leased incorporating the restrictions of this Lease, including but not limited to the use restrictions of Section 5.1 and Section 5.2.

Section 5.2. Prohibited Uses: The Research Park may not be used for any other purpose than those allowed in Section 5.1 above without the prior written consent of the Landlord. In no circumstances may uses inconsistent with a Research Park environment be located on the Leased Property.

Section 5.3. Environmental Laws: During the term of this Lease, Discovery District and its Subtenant(s) shall comply with all environmental laws, ordinances, rules or regulations, and Discovery District shall not permit the generation, creation, treatment, incorporation, discharge, escape, release or threat of release of any contaminant above, upon, under, within or from the Leased Property, and shall permit no underground storage tanks containing any contaminant to be located upon the Leased Property.

Discovery District and its Subtenant(s) must comply with all laws and maintain all relevant permits regarding storage, handling, and disposal of all chemicals, including "select agents" and wastes, including bio-hazardous ones, using licensed contractors. Discovery District and its Subtenant(s) will maintain an updated MSDS for each applicable substance maintained on the

Leased Property. Discovery District and its Subtenant's chemical/waste contractors shall name the Landlord as an additional insured on any insurance they carry. Discovery District and its Subtenant(s) shall not use, store or dispose of any radioactive materials on the Leased Property. Discovery District shall require its Subtenant(s) to indemnify the Landlord, the University of South Dakota and Discovery District against environmental injury or liability. The Landlord will be given access upon reasonable notice to review the records relating to the chemical management, emergency safety plans, and similar documents, all of which shall be maintained on the Leased Property.

Notwithstanding anything herein to the contrary, Discovery District shall submit to Landlord policies and procedures for use, storage and disposal of radioactive materials. No use, storage or disposal of radioactive materials on Leased Property shall be permitted until Landlord has approved the Discovery District radioactive materials policies. Upon Landlord's approval of radioactive materials policies, Discovery District may allow use of radioactive materials consistent with the policy and Subtenant(s) may apply to Discovery District to use and store radioactive materials, consistent with the policy, for medical, industrial or academic purposes only upon obtaining, and providing evidence of, licensure from the United States Nuclear Regulatory Commission or other governmental bodies with jurisdiction over the use and storage of such radioactive materials.

Section 5.4. Contaminants: For the purposes of this Lease, contaminants includes a "Petroleum Product" as described in SDCL 37-2-5, asbestos, or a "Regulated Substance" as described in SDCL 34A-12-1(8) or substances regulated under and defined in the provisions of 15 U.S.C. 2601-2671 (1989) (TSCA) or 33 U.S.C. 1251-1387 (1989) (FWPCA) or 42 U.S.C. 6901-6999(i) (1989) (RCRA) or 42 U.S.C. 9601-9675 (1989) (CERCLA) or 42 U.S.C. 7401-7642 (1989) (CAA), and any corresponding federal and state regulations promulgated under the above federal and state statutes and amendments, deletions or corrections to such laws, ordinances, rules or regulations and further including laws, ordinances, rules or regulations concerning substances harmful to the environment which are passed subsequent to the commencement date of this Lease and which will become effective during the term of this Lease and until Discovery District surrenders possession of the Leased Property. For illustrative purposes only and not by way of limitation, a partial listing of contaminants includes asbestos containing materials, gasoline, waste oil, lubricating oil, fuel oil, petroleum product distillates, solvents, paints, enamels, paint or enamel thinners, acetones, acids, pesticides, rodenticides, herbicides, fungicides, mercury, lead, cyanide, and polychlorinated biphenyls, or any combination of these substances. To the extent that any of the above referenced laws, ordinances, rules and regulations are inconsistent, the Landlord and Discovery District and its Subtenant(s) agree that the interpretation favoring the classification of a substance as harmful to the environment shall be controlling.

Section 5.5. Removal of Contaminants: Discovery District and its Subtenant(s) will, at their own expense, abate, remedy and remove any contaminant discovered on the Leased Property which was located, generated, created, stored, treated, incorporated, discharged, disposed of, allowed to escape, released or about to be released by Discovery District and its Subtenant(s).

Section 5.6. Hold Harmless and Indemnify: The Landlord and Discovery District and its Subtenant(s) agree that, for purposes of this Lease, Discovery District and its Subtenant(s) shall hold harmless and indemnify the Landlord for any loss or damage caused thereby during or after the expiration of the Lease for loss or damage arising from violation of law, ordinance, rule or regulation as described in Section 5.3. The provisions of this section survive the termination of this Lease.

Section 5.7. Bankruptcy – Auction Sales/ Abuse of Property: Discovery District and its Subtenant(s) shall not, without the Landlord's prior written consent, conduct any auction or bankruptcy sales in or about the Leased Property, nor abuse the Research Park, other improvements, fixtures or personal property constituting the Research Park (including, without limitation, walls, ceilings, partitions, floors and wood, stone and iron work), nor use plumbing for any purpose other than that for which constructed, nor make or permit any noise or odor objectionable to the public, to other occupants of the Research Park to emit from the Leased Property; nor create, maintain or permit a nuisance thereon; nor do any act tending to injure the reputation of the Research Park.

ARTICLE VI

UTILITIES

Section 6.1. Hook-Up Charges: Discovery District and its Subtenant(s) shall be responsible and pay for all utility hook-up charges necessary to bring utilities to the Leased Property and facilities thereon constructed by the Discovery District and its Subtenant(s). The Landlord and Discovery District and its Subtenant(s) acknowledge there is an ongoing right of easement for utility purposes on or across the land.

Section 6.2. Utility Charges: Discovery District and its Subtenant(s) shall pay for all heating, air conditioning, electricity, gas, water, sewer, cable, telephone, telecommunications, or other like charges used in the Leased Property throughout the term of this Lease.

Section 6.3. Utility Interruptions: Landlord shall not be liable in damages or otherwise if the furnishing by the Landlord, or by any other supplier of any utility or other service to the Leased Property, shall be interrupted or impaired by fire, repairs, accident, or by any causes beyond the Landlord's control.

ARTICLE VII

REPAIRS

Section 7.1. Repairs and Modifications: Discovery District and its Subtenant(s) shall keep the Research Park, including all components and systems comprising its infrastructure, buildings, structures and grounds, in good repair and in clean, sanitary and safe condition, ordinary wear and tear excepted, and if necessary, or if required by proper governmental authority, shall make

modifications or replacements thereof, and Discovery District and its Subtenant(s) shall repair, modify, replace or renovate such improvements to restore or to maintain their good condition.

Section 7.2. Landlord Inspection Access: The Landlord shall have reasonable access to inspect the Research Park. Landlord shall notify and schedule inspections with Discovery District before such inspection takes place. If it finds that any constituent structure, component, or system due to need of repair or maintenance does not comply with requirements of proper governmental authorities, it shall notify the Discovery District of such need. If Discovery District refuses or fails to perform such repair or maintenance, the Landlord may elect to treat such refusal as a breach and pursue its remedies under this Lease or as provided under applicable law. Discovery District shall permit no waste, damage, or injury to the Leased Property and will reimburse the Landlord for the cost of repairing any damage or injury caused or permitted by Discovery District, its agents or invitees.

Section 7.2.1. Delegation: Landlord may delegate its right of inspection to Discovery District or it may otherwise exercise it in cooperation with Discovery District.

ARTICLE VIII

INDEMNITY

Section 8.1. Indemnification: Absent willful misconduct by the Landlord or its agents, Discovery District shall indemnify and hold the State of South Dakota, the Landlord, University of South Dakota, and their officers, agents and employees, harmless from all liabilities associated with the Leased Property and its use and operation thereof. This Section does not require the Discovery District to be responsible for or defend against claims or damages arising solely from acts or omissions of the State of South Dakota, the Landlord, University of South Dakota, or their officers, agents, or employees or Subtenant(s) to be responsible for or defend against claims or damages arising solely from acts or omissions of the State of South Dakota, the Landlord, University of South Dakota, or their officers, agents, or employees

ARTICLE IX

INSURANCE

Section 9.1. Required Insurance: Discovery District and Subtenant(s), at their expense, shall be solely responsible to provide full-extended fire and casualty insurance coverage for structures located within the Research Park in an amount of at least the appraised value of the structures within the Research Park. Discovery District and Subtenant(s) shall also provide comprehensive liability insurance coverage of not less than \$5,000,000.00, such policy to contain an endorsement naming the Landlord and the University of South Dakota as additional insureds. The minimum liability coverage is based upon the value of the United States dollar in 2015, and the minimum shall be adjusted at five year intervals throughout the term of the Lease to reflect fluctuations in the Consumer Price Index, or such successor index as may be employed by the United States government to track changes in the costs of consumer goods and services.

Section 9.2. Additional Insurance: Discovery District and Subtenant(s) shall maintain at their own cost and expense, fire and extended coverage, vandalism, malicious mischief and special extended coverage insurance in an amount adequate to cover the cost of replacement of all Discovery District and Subtenant(s)'s alterations, changes, furnishings, decorations, additions, fixtures and improvements in the Leased Property if a loss occurs, in companies and in form acceptable to the Landlord. The insurance which the Discovery District and Subtenant(s) agree to carry in this Section shall insure the full insurable value of the improvements and betterments installed by the Discovery District and Subtenant(s) on the Leased Property, whether the same have been paid for entirely or partially by Discovery District and Subtenant(s). Copies of the policy or policies of such insurance or certificates thereof will be provided to the Discovery District and Discovery District will maintain accurate files and records to assure such policies are renewed and current.

ARTICLE X

FIRE OR OTHER CASUALTY

Section 10.1. Loss or Damage: In a case of partial or total loss or damage to said improvements, alterations, additions and repairs, all proceeds of any applicable insurance shall be used with all reasonable speed by Discovery District and Subtenant(s) for rebuilding, repairing or otherwise reinstating the same improvements and other improvements in a good and substantial manner according to the original plan and elevation thereof, or such modified plan conforming to the laws and regulations then in effect if it shall be approved by Landlord. Notwithstanding the foregoing, Landlord may waive, in its sole discretion, the requirement to rebuild or repair the improvements in the event rebuilding or repairing the improvements is commercially unreasonable given the remaining term of the Lease and, instead, Discovery District or its subtenant may restore the Leased Property to its original condition at Discovery District or its subtenant's sole cost.

ARTICLE XI

ASSIGNMENT AND SUBLETTING

Section 11.1. Assignment or Subletting: Discovery District and Subtenant(s) may assign or transfer interests in the property leased hereunder, subject to this Lease. Assignments of interests Leased hereunder by Discovery District shall be reported at least annually to Landlord. To the extent that Discovery District and Subtenant(s) assigns or transfers such interests to subtenants, Landlord authorizes Discovery District to enter into subordination, nondisturbance, and attornment agreements with subtenants or their lenders as described in Section 1.4 above, stating that the subtenants' subleases shall not be disturbed subject to the subtenants' compliance with their subleases and making required sublease payments to Landlord for the remainder of the term of the respective sublease, which shall not exceed the term of this Lease. No assignment or subletting shall release Discovery District of its obligations under this Lease or be construed or taken as a waiver of any of the Landlord's rights hereunder. The acceptance of rent from someone other than Discovery District shall not be deemed a waiver of any of the provisions of this Lease.

Section 11.2. Rights of Landlord: Upon the termination of the Lease, the rights and obligations of Discovery District under this lease, the CC&R's or any subleases or contracts duly issued pursuant to this lease shall vest with Landlord.

Section 11.3. Rights of Subtenant(s): In the event this Lease is terminated in advance of its natural term, Landlord agrees that so long as the subtenant is not in default under its sublease: (a) subtenant's possession of the Leased Premises shall remain undisturbed; and (b) Landlord shall be bound to the subtenant for the term of the sublease and any renewals thereof, which shall not exceed the term of this Lease as it may be extended under Section 1.6. Landlord will execute a non-disturbance agreement setting forth the foregoing non-disturbance and attornment rights if requested by the subtenant or its lender.

Section 11.4. Trustees or Receivers: Neither this Lease nor any interest therein, shall pass to any trustees or receiver in bankruptcy, or any assignee for the benefit of creditors, or by operation of law.

Section 11.5. Binding on Successors: The covenants, agreements and obligations herein contained, except as herein otherwise provided, shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns, and any mortgagee or other party whose claim arises from a pledge of this Lease by Discovery District to secure financing. Pursuant to SDCL 5-29-11, nothing in this Lease shall impair the reversionary interest of the Landlord. The Landlord, at any time and from time to time, may make an assignment of its interest in this Lease, and, in the event of such assignment and the assumption by the assignee of the covenants and agreements to be performed by the Landlord herein, the Landlord and its successors and assigns (other than the assignee of this Lease) shall be released from any and all liability hereunder.

ARTICLE XII

REMEDIES

Section 12.1. Right to Cure Breach: If any breach occurs hereunder by Discovery District, after ninety (90) day written notice to Discovery District and barring Discovery District's initiation of good faith efforts to cure such breach, the Landlord may cure such breach for the account and at the expense of Discovery District. If the Landlord by reason of such breach is compelled to pay, or elects to pay, any sum of money or do any act which will require the payment of any sum of money, or incurs any expense, including reasonable actual attorneys' fees and costs incurred by the Landlord in connection with the recovery of possession of the Leased Property or the enforcement of any of the terms and provisions of this Lease, the sum or sums so paid by the Landlord shall be deemed to be due from Discovery District to the Landlord.

Section 12.2. Landlord Default: Should the Landlord be in default under this Lease, the Landlord shall have ninety (90) days' time in which to cure the same after written notice to the Landlord by Discovery District.

ARTICLE XIII

SURRENDER OF POSSESSION

Section 13.1. Expiration of Lease: On July 1, 2113, Discovery District and Subtenant(s) will provide Landlord with a facility inventory and condition analysis detailing the then current state of the buildings, fixtures, and appurtenances comprising the Research Park. Accompanying the facility inventory and condition analysis will be an offer to donate to the State of South Dakota through Landlord for the use and benefit of University of South Dakota all such improvements if approved by the South Dakota Legislature at its 2114 Session.

Section 13.1.1. Approval of Donation: If the South Dakota Legislature approves acceptance of the donation of the buildings, fixtures and appurtenances comprising the Research Park, upon expiration of this Lease, Discovery District and Subtenant(s) will promptly quit and surrender the Premises including the Building and Improvements constructed by Discovery District and Subtenant(s) in good order, condition, and repair, ordinary wear and tear and damage by condemnation and casualty excepted and in broom clean condition. Discovery District and Subtenant(s) will submit in writing to Landlord seeking Landlord's written consent for Discovery District and Subtenant(s) to remove from the Leased Premises any fixtures or equipment installed thereon by Discovery District and Subtenant(s), whether or not such fixtures are fastened to Buildings, or other improvements located upon the Leased Premises and regardless of the manner in which they are fastened, provided, however that under no circumstances shall any fixture be removed without Landlord's written consent if (a) such fixtures or equipment are used in the operation of any building or improvement upon the Leased Premises, or (b) the removal thereof would result in impairing the structural strength of any building or improvement upon the Leased Premises. Discovery District and Subtenant(s) shall fully repair any damage occasioned by the removal of any such fixtures and shall leave the buildings and improvements in good, clean and neat condition. Trade fixtures are exempt from this clause.

Section 13.1.2. Rejection of Donation: In the event that the South Dakota Legislature rejects acceptance of the donation of the improvements comprising the Research Park, Discovery District and any remaining Subtenants shall demolish, disassemble, or remove the buildings, fixtures, and appurtenances comprising the Research Park. The requirements of this section may be waived, in the sole discretion of the Landlord, if a successor tenant or subtenant(s) (which may be Discovery District and its Subtenants), acceptable to the Landlord, agrees to take ownership of the buildings, structures, and improvements in the Research Park and enter into a lease with the Landlord.

Section 13.2. Effect of Hold Over: If Discovery District remains in possession of the Leased Property after the expiration of the tenancy created hereunder with the consent of the Landlord and without execution of a new Lease, it shall be deemed to be occupying the Leased Property as a tenant from month-to-month, subject to all the other conditions, provisions and obligations of this Lease insofar as the same are applicable to month-to-month tenancy.

ARTICLE XIV

NOTICES

Section 14.1. Delivery of Notice: Whenever under this Lease a provision is made for notice of any kind, such notice shall be in writing and shall be deemed sufficient to Discovery District if actually delivered to Discovery District; and to the Landlord if actually delivered to the Landlord. Delivery may be evidenced by receipts of certified or registered mail or express mail, or by personal service.

ARTICLE XV

TITLE

Section 15.1. Right and Authority to Lease: The Landlord covenants it has full right and authority to enter into this Lease for the full term hereof. The Landlord further covenants that Discovery District, upon performing the covenants and agreements of this Lease to be performed by said Discovery District, will have, hold and enjoy quiet possession of the Leased Property for the full duration of the term.

Section 15.2. Landlord Appointment of Discovery District as Agent for Execution of Documents: Landlord authorizes Discovery District to execute such other and further documents as are necessary to carry out the terms of this Lease and the contemplated development.

ARTICLE XVI

GENERAL

Section 16.1. Taxes: Discovery District and Subtenant(s) will be solely responsible for any property taxes or assessments or any other applicable taxes arising because of its Lease or use of the Leased Property.

Section 16.2. Relationship of Parties: Nothing contained herein shall be deemed or construed by anyone as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, except as otherwise specifically provided.

Section 16.3. Cumulative Remedies and Nonwaiver: The various rights and remedies contained in this Lease shall not be considered as exclusive of any other right or remedy, but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity, or by statute. No delay or omission of the right to exercise any power by either party shall impair any such right or power, or shall be construed as a waiver of any default or as acquiescence therein. One or more waivers of any covenant, term, or condition of this Lease by either party shall not be construed by the other party as a waiver of a subsequent breach of the same covenant, term, or condition. The consent or approval by either party to or of any act by the

other party of a nature requiring consent or approval shall not be deemed to waive or render unnecessary consent to approval of any subsequent similar act.

Section 16.4. Headings: The headings of the several articles and sections contained herein are for convenience only and do not define, limit or construe the contents of such articles and sections.

Section 16.5. Binding Effect of Lease: The covenants, agreements and obligations herein contained, except as herein otherwise specifically provided, shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns. The Landlord, at any time and from time to time, may make an assignment of its interest in this Lease, and, in the event of such assignment and the assumption by the assignee of the covenants and agreements to be performed by the Landlord herein, the Landlord and its successors and assigns (other than the assignee of this Lease) shall be released from any and all liability hereunder.

Section 16.6. Entire Agreement: This Lease constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes any and all prior understandings and agreements, oral and written, relating hereto. Any amendment hereof must be in accord with the following paragraph on "Modification."

Section 16.7. Modification. This Lease may be modified at any time upon the mutual agreement in writing of the parties.

Section 16.8. Force Majeure: Whenever a period of time is herein provided for either party to do or perform any act or thing, that party shall not be liable or responsible for any delays, and applicable periods for performance shall be extended accordingly, due to strikes, lockouts, riots, acts of God, shortages of labor or materials, national emergency, acts of a public enemy, governmental restrictions, laws or regulations, or any other cause or causes, whether similar or dissimilar to those enumerated, beyond its reasonable control. The provisions of this Section shall not operate to excuse Discovery District from prompt payment of Annual Rent, Additional Rent or other monetary payments required by this Lease.

Section 16.9. Recording of Lease: Discovery District shall not record this Lease without the written consent of the Landlord, which shall not unreasonably be withheld. Discovery District may prepare a Memorandum of Lease for purpose of recording and Landlord's approval of such recordation shall not be unreasonably withheld.

Section 16.10. Acceptance of Payment: No payment by Discovery District or receipt by the Landlord of a lesser amount than the amount then due under this Lease shall be deemed to be other than on account of the earliest portion thereof due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and the Landlord may accept such check or payment without prejudice to the Landlord's right to recover the balance due or pursue any other remedy in this Lease provided.

Section 16.11. Unenforceability: Unenforceability of any provision contained in this Lease shall not affect or impair the validity of any other provision of this Lease.

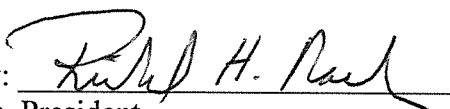
Section 16.12. Governing Law: The laws of the state of South Dakota shall govern the validity, performance, and enforcement of this Lease.

IN WITNESS WHEREOF, the Landlord and Discovery District have executed this Lease as of the day and year first above written.

SOUTH DAKOTA BOARD OF REGENTS

By: 
Its: Executive Director & CEO

UNIVERSITY OF SOUTH DAKOTA RESEARCH PARK, INC. (d/b/a USD Discovery District)

By: 
Its: President

ACKNOWLEDGMENT BY UNIVERSITY OF SOUTH DAKOTA

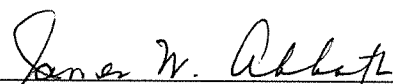
By: 
Its: President

EXHIBIT A
UNIVERSITY OF SOUTH DAKOTA
DISCOVERY DISTRICT

